

to establish a proper *prima facie* case of anticipation. The asserted reference fails to correspond to the claimed invention, or show all aspects claimed; therefore, the reference cannot be used to maintain the rejection under § 102(b). The Office Action fails to explain how the invention is taught by the asserted reference. Specifically, Applicant fails to see among the cited portions of the reference, *inter alia*, features completely correspond to the claimed limitations of an on-line viewer site; a computer-driven, web-linking engine configured and arranged to create an item from image-data corresponding to a colored article selected from the on-line viewer site; the computer-driven web-linking engine being adapted to compare color codes identifying respective colors of the colored article and colored item; a color-matching criterion; and the computer-driven web-linking engine indicating whether the colored article and the colored structure satisfy the color-matching criterion. At best, a couple cited references at the bottom of column 10 bear a description of “pattern matching” but even then references fail to relate even remotely, to either the claimed invention or any discernible embodiment of the *Hoffberg et al.* at Section 108 reference. Without further explanation and evidenced correspondence in this regard, the cited reference fails to establish a *prima facie* case of anticipation; thus, Applicant requests that the § 102(b) rejection of independent claims 1 and 6-8, and all the claims depending therefrom, be removed.

Applicant fails to see how the *Hoffberg et al.* reference, concerning an adaptive man-machine interface for a programmable system (e.g., VCRs, vehicles, audio devices, etc.) to recognize control system input patterns for the purposes of predicting a desired user function (*see, e.g.*, Title, Abstract) identically teaches the system/method of the present invention concerning the color matching of articles viewed on-line (e.g., world wide web-based) viewer site such as in an e-commerce shopping application. The Examiner seems to have relied on the disclosure of the present invention as a blueprint for piecing together unrelated passages of the *Hoffberg et al.* reference in order to reject the present invention—the essence of hindsight. Interpreting reference(s) in view of such hindsight is improper. *See, e.g.*, *Interconnect Planning Corp v. Feil*, 774 F.2d 1132, 1138, 227 U.S.P.Q. 543, 547 (Fed. Cir. 1985) (“The invention must be viewed not with the blueprint drawn by the inventor, but in the state of the art that existed at the time.”)

More specifically, the § 102(b) rejection merely recites Applicant's claims followed by passages of the *Hoffberg et al.* reference. For example, the rejection of claim 1 cites approximately 25 apparently unrelated passages selected from a variety of *Hoffberg et al.* embodiments including a VCR interface, a controlled encryption and accounting system, VCR programming preference prediction, character recognition of video, and image pattern recognition. None of the *Hoffberg et al.* embodiments seem related the claimed system for color matching an article and/or (satisfying a color-matching criteria) the article being viewed on-line. The passages provide little more than a mere catalog of alleged elements and exclude limitations of the claimed invention directed to the essential cooperation between elements. Applicant respectfully submits that such an aggregation of uncooperated alleged elements does not establish a *prima facie* case of anticipation for lack of complete correspondence with the claimed invention, and requests that the § 102(b) rejection of independent claims 1 and 6-8, and all the claims depending therefrom, be removed.

As a more particular illustration of the lack of correspondence with the claimed invention, the rejection of claim 1 includes only one cited passage that mentions "on-line" aspects. The cited portion of the reference at col. 61, lines 54-56 states, "Information communication may be through the Internet or through an on-line service such as America Online or Compuserve." This particular cited portion of the *Hoffberg et al.* reference is extracted from a discussion of controlling access to an electronic key as part of a decryption scheme so that an account can be charged for use of the decryption means. It is unclear as to which portion of Applicant's claim is allegedly taught by the above-mentioned cited passage of the *Hoffberg et al.* reference. Furthermore, it is unclear how any of the on-line aspects of the present invention (e.g., an on-line viewer site; a computer-driven web-linking engine; and selecting a colored article by an on-line viewer from the on-line viewer site) are identically taught by cited passage extracted from an unrelated context from within the *Hoffberg et al.* reference. Applicant respectfully submits that the mere mention of various words and phrases within a single reference does not constitute identical teaching of the configuration of the present invention, and requests that the § 102(b) rejection of independent claims 1 and 6-8, and all the claims depending therefrom, be removed.

In addition, Applicant respectfully submits that such an aggregation of uncooperated alleged elements is too vague and indefinite to identically teach the claimed invention (*see, generally*, MPEP § 2173.05(k)), and requests that the § 102(b) rejection of independent claims 1 and 6-8, and all the claims depending therefrom, be removed.

Furthermore, Applicant respectfully submits that the rejection repeating each of Applicant's claims followed by a plurality of cited passages from a reference, without any correspondence between the cited passages and the portion of the claim they are alleged to teach, does satisfy the requirements of 35 U.S.C. § 132 to notify Applicant of the reasons for the rejection. Therefore, Applicant requests that the rejections be withdrawn.

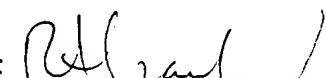
With respect to the rejection of dependent claims 2-5 and 9-16, since they depend from patentably distinguishable independent claims 1 and 8 for the reasons set forth above, the dependent claims are patentably distinguishable as well. Therefore, Applicant believes dependent claims 2-5 and 9-16 to be allowable over the art of record.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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